



INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Officer-Involved Fatal Incident in
Charles County on June 29, 2023

August 25, 2023

**Report of the Independent Investigations Division of the
Maryland Office of the Attorney General Concerning the
Officer-Involved Death of Dejuan James Mitchell on June 29, 2023**

Pursuant to Md. Code, State Gov't § 6-602, the Office of the Attorney General's Independent Investigations Division (the "IID") provides this report to Charles County State's Attorney Anthony Covington regarding the officer-involved death of Dejuan James Mitchell on June 29, 2023, in Charles County, Maryland.

The IID is charged with "investigat[ing] all police-involved incidents that result in the death of a civilian or injuries that are likely to result in the death of a civilian" and "[w]ithin 15 days after completing an investigation ... transmit[ing] a report containing detailed investigative findings to the State's Attorney of the county that has jurisdiction to prosecute the matter." Md. Code, State Gov't § 6-602(c)(1), (e)(1). The IID completed its investigation on August 24, 2023. This report is being provided to State's Attorney Covington on August 25, 2023.

I. Introduction

On June 29, at approximately 2:00 p.m., officers with the Charles County Sheriff's Office ("CCSO") responded to the 11900 block of Acton Lane in Waldorf for reports of a woman being assaulted by a man in a parking lot and a possible carjacking. Officers were made aware that the man, who was not known to the woman, left the scene after stealing the woman's car. The first arriving officer spotted the woman's car being driven out of the parking lot and the officer followed. The male driver, later identified as Dejuan James Mitchell, failed to stop when officers began pursuing him and led them on a pursuit for several minutes. While fleeing south on Mattawoman-Beantown Road, Mr. Mitchell lost control of the car, striking a curb. The car rotated before it struck a grass median, crossed into the northbound lanes of Mattawoman-Beantown Road, and then collided with a dump truck. Mr. Mitchell was pronounced dead on scene. The dump truck driver suffered minor injuries and was taken to a local hospital. The woman who was assaulted was taken to a local hospital also with minor injuries.

This report details the IID's investigative findings based on a review of dashboard camera footage, crash scene analysis, autopsy report, witness interviews, police reports and recordings, and personnel records for the involved officer, among other items.¹ All materials reviewed in this investigation are being provided to the Charles County State's Attorney's Office with this report and are listed in Appendix A.

This report also includes an analysis of Maryland law that could be relevant in a fatal vehicle pursuit of this nature. The IID considered the elements of possible criminal charges, relevant departmental policies, and Maryland case law to assess whether any charge could be supported by the facts of this incident. Because the Charles County State's Attorney's Office—not the Office of the Attorney General—retains prosecution authority in this case, this report

¹ CCSO officers are not yet equipped with body-worn cameras.

does not make recommendations as to whether the any officer should or should not be charged.²

II. Factual Findings

A. Carjacking³

On Thursday, June 29, 2023, at approximately 2:00 p.m., ██████████ drove her Toyota Camry into the Walmart parking lot at 11930 Acton Lane, Waldorf, Maryland. She told IID investigators in a later interview that she had done so because she was talking on her cellphone and knew that it was illegal to talk on the phone and drive her car. ██████████ said that she pulled into a space in the back of the parking lot and turned her car off. She said that while she was on the phone, she opened the door to her car as it was hot inside. She said that she heard a male voice, later identified as Dejuan Mitchell, behind her say, “you start this car” and “give me a ride.” ██████████ told investigators that she said, “sir, I don’t know you. I can’t give you a ride. You don’t know me and I’m not giving you the ride.” ██████████ said that she thought Mr. Mitchell left, but seconds later he came to the driver’s side door, opened it further, and said “get out, get out!” ██████████ said that she refused to get out of the car, but Mr. Mitchell pulled her out of the car by grabbing her hands and arms, then pushed her to the ground while punching her in the forehead. ██████████ said she grabbed the car key before being pulled out of the car and tried to run to the other side of the car, but Mr. Mitchell followed her and grabbed at the key saying, “Give me the key! Give me the key!” She said she would not give him the key, so he punched her in the elbow and bit her on the hand. When she felt pain in her right hand, she said she switched the key to her other hand and Mr. Mitchell bit her again, this time on her left hand.

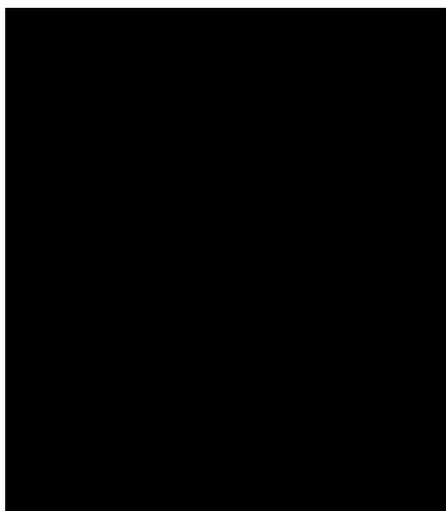


Image 1. Photograph of the bite mark on ██████████ right hand.

██████████ told investigators that Mr. Mitchell continued beating her and she screamed for help until two men came over to help her but did not physically intervene in the attack. Mr. Mitchell kept saying, “it’s my car,” and ██████████ said she kept telling the men that it was her car. She said one of the men called the police, as Mr. Mitchell took her lanyard and key chain—identified by an “I love Jesus” ornament—and got into her car. ██████████ said that she was able to run around to the passenger side door and grab her purse, and that she also threw out a cardboard box that Mr. Mitchell had put onto the passenger seat. At that point, ██████████ said she had to get out of the way of her car because Mr. Mitchell began backing it up and out of the parking lot.

² Effective October 1, 2023, the IID will have the sole authority, where appropriate, to prosecute police-involved incidents that result in the death of an individual or injuries that are likely to result in the death of an individual. For incidents occurring before that date, the local State’s Attorney retains sole prosecution authority.

³ Although this information was not known to any officer involved in the pursuit, it is provided here for clarity.

While [REDACTED] was fighting with Mr. Mitchell, several people in the parking lot came to her aid. Starting at 2:00:16 p.m., six people called 911 to report the incident, telling dispatchers that “a woman is being beaten,” “I think she is being robbed,” and “a man is attacking a woman and trying to push her in the car.” Screaming could be heard in the background of some of the calls. One caller further said, “he’s beating the crap out of her” and described the suspect as a “black male with a white shirt and something black around his neck.” Approximately two minutes into one of the calls, the caller tells the dispatcher that the man is inside the car—a Toyota Camry—and was leaving the parking lot. She also provided the dispatcher with the direction of travel for the Camry but was unable to provide the license plate number.

B. The Pursuit

The events described below occurred during the daylight hours with hazy and smoky weather, and the pursuit lasted less than five minutes. Unless otherwise noted, all information referenced in this section was obtained from a review of CCSO in-car video.

At 2:00 p.m., a dispatcher radioed officers to respond to the Walmart for a complaint of an assault and a “male jumped into driver seat then jumped out and beat a female.” In response to that call, CCSO Corporal William Saunders drove to the Walmart parking lot. Once in the parking lot, Corporal Saunders searched for the complainant. He was waved down by civilians in the back corner of the parking lot where [REDACTED] was visible, sitting on the ground. The



Image 2. Still photograph from Corporal Saunders' in car video showing the Toyota Camry making a right turn after leaving the Walmart parking lot.

footage also showed the civilians pointing towards the exit of the parking lot, and Corporal Saunders proceeded in that direction.⁴

Corporal Saunders radioed dispatch, saying that the call was going to be for an “assault in progress.” On Corporal Saunders’ in-car video, [REDACTED] gold Camry was briefly visible at the stoplight at the intersection of Acton Lane and Route 301, as it made a right turn from the center lane. Corporal Saunders activated his emergency lights but got trapped behind stopped traffic at the stop light. He appeared to lose sight of the Camry but called out over his radio saying, “on Acton getting ready to hit light, taking a right on to 301.”

Corporal Saunders could be heard on the radio calling out the location of the Camry as it was fleeing. At 2:02:59, he said, “he’s on the right shoulder at VFW [road], he’s running” and then 26 seconds later said, “down VFW, northbound on 925.” At 2:04:09, he radioed that they were on Substation Road towards Route 205. Numerous CCSO officers, including Officers Dureyea Toland and Keegan Dunn, responded to the area in pursuit of the Camry.

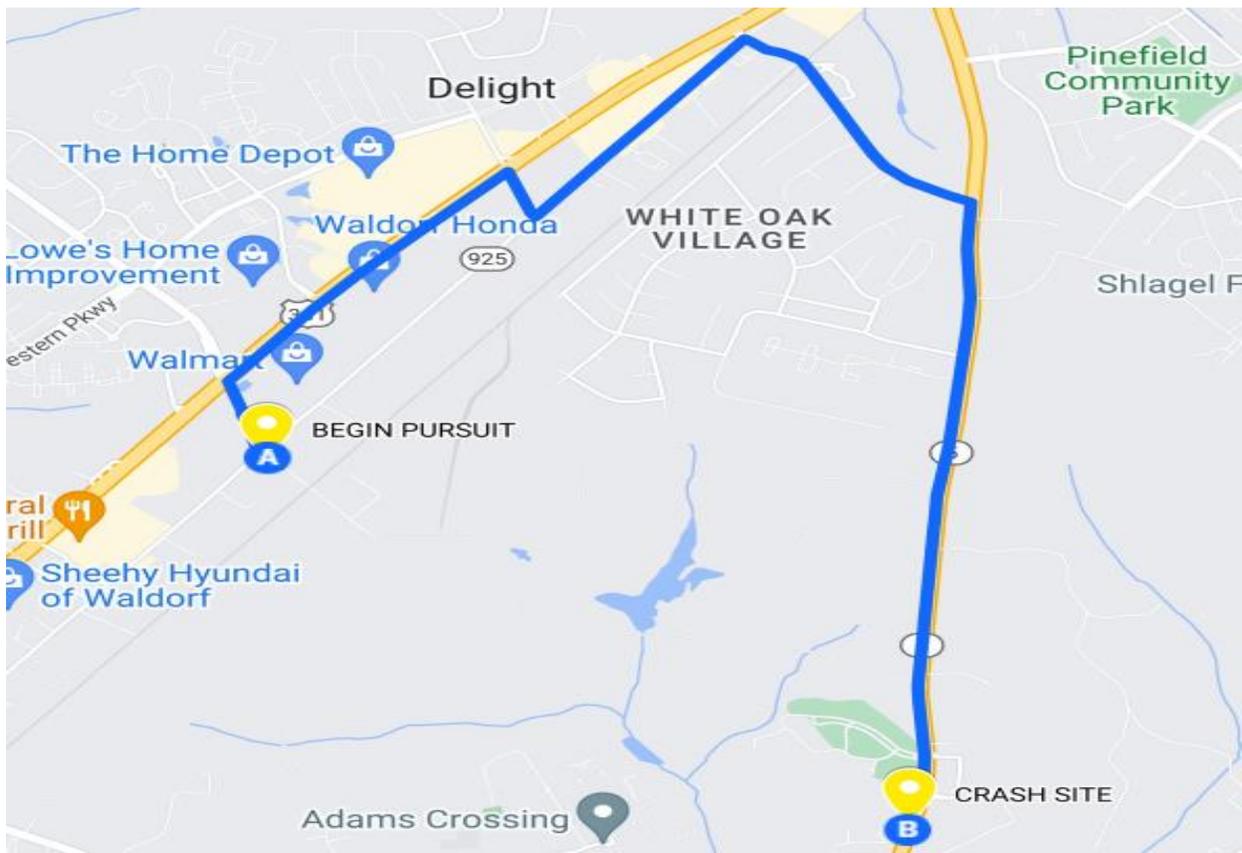


Image 3. Map of the route that Corporal Saunders took during the pursuit. Officers Dunn and Toland's cruisers were not equipped with GPS monitoring, so the IID was unable to get coordinates for their routes during the pursuit.

⁴ This portion of the in-car video does not have sound as the audio does not start recording until the cruiser's lights and sirens activate. As such, the IID was unable to determine exactly what was said to Corporal Saunders during this encounter.

At 2:04:46 p.m., Officer Dunn located the Camry in the area of Route 205 and Substation Road. When the Camry turned onto Route 205 from Substation Road, the vehicle almost entered the lane Officer Dunn was driving in before continuing southbound on Route 205 (see Image 4). Officer Dunn made a U-turn and began following the Camry and called out locations and speeds over the radio. Initially, after getting



Image 4. Still photograph from Officer Dunn's in car video showing the moment he located the Toyota Camry, as it turns onto Southbound Route 205.

behind the Camry, he said they were traveling "southbound in number one lane"⁵ and the speed was "75" miles per hour. "Traffic on the road is light." At 2:04:56, Officer Dunn radioed again that "traffic is light, speeds 100." The Camry drove between both lanes of traffic on Route 205. Officer Dunn again called out his location, "number two lane, speeds 102, zero traffic." At 2:05:24 p.m., Officer Dunn radioed once again that speeds had increased to 116 miles per hour

⁵ The number one lane is the far left lane on a divided highway, or the fast lane; the number two lane is the lane to the right of the fast lane. A review of Officer Dunn's in-car video shows that Mr. Mitchell was weaving in between lanes, and, at times, Mr. Mitchell was in the right lane when Officer Dunn was calling out that he was in the left lane.

and requested that an additional officer attempt to get in position to place “stop sticks”⁶ at the upcoming intersection of Route 205 and Route 5.



Image 5. Still photograph from Officer Dunn's in-car video showing the moment the Camry struck the median.

The Camry continued southbound on Route 205, before it attempted to navigate a slight turn adjacent to a Park and Ride lot while travelling approximately 110 miles per hour, based on Officer Dunn’s estimate over the radio. At 2:05:36 p.m., the Camry struck the center median on the driver’s side and spun counterclockwise back into the road. Mr. Mitchell appeared unable to regain control of the Camry, and the car fishtailed back toward the left side of the road, jumped the center median, spun around, and briefly went against traffic in the northbound lane before

⁶ “Stop Sticks” are devices that contain several spiked steel quills designed to puncture a tire and deflate it over the course of twenty to thirty seconds without causing a blowout and are often used by law enforcement to stop a fleeing vehicle.

being struck by an oncoming dump truck. Officer Dunn radioed the dispatcher confirming the accident and immediately requested that emergency services start responding.



Image 6. Still photograph from Officer Dunn's in-car video showing the moment after the Camry lost control and just before it crosses the center median. Image 7. Still photograph of the crash between the dump truck and the Camry.

Officer Dunn notified the dispatcher of the crash at 2:05:54 p.m. Approximately 50 seconds had elapsed between when Officer Dunn's in-car camera first captured the Camry on Route 205 and the crash. In total, from the time Corporal Saunders observed the Camry at the Acton Lane and Route 301 intersection, the pursuit lasted less than four minutes.



Image 8. Aerial photograph showing the site of the collision. The dump truck is in the northbound lanes. The Camry was travelling southbound before crossing the median and striking the dump truck. The Camry is in front of the dump truck but cannot be seen on this picture.

A review of CCSO in-car video footage by IID investigators showed that Officer Dunn was behind the Camry as it was driving on Route 205. CCSO Officer Dureyea Toland was farther behind Officer Dunn on Route 205 with his lights and sirens activated and engaged in the pursuit, although his in-car video suggests that he was not in position to see the crash when it occurred. Officer Toland drove at high speeds to catch up to Officer Dunn and Mr. Mitchell on Route 205 and pulled up just behind Officer Dunn after the Camry collided with the dump truck.⁷

C. After the Crash

According to the in-car video footage from Officer Toland's cruiser, when Officer Dunn stepped out of his patrol car, he ran toward the Camry, which had come to a stop partially underneath the dump truck. Additional officers, including Corporal Saunders and CCSO Officer

⁷ The IID was not able to obtain the exact speeds from the cruisers of Officers Dunn and Toland because their cruisers were not yet equipped with functional GPS monitoring devices.

Donald Butler, approached the car. Witnesses and Officer Butler told investigators that an officer broke the driver's window trying to get to the driver, as he was pinned inside the Camry. Given the condition of the Camry and the position of Mr. Mitchell within it, officers were unable to remove his body from the vehicle. Ultimately, fire personnel were called to extract Mr. Mitchell's body from the pinned Camry after moving it away from the dump truck. Because of this, officers were unable to render medical aid to Mr. Mitchell, and he was pronounced dead on scene.

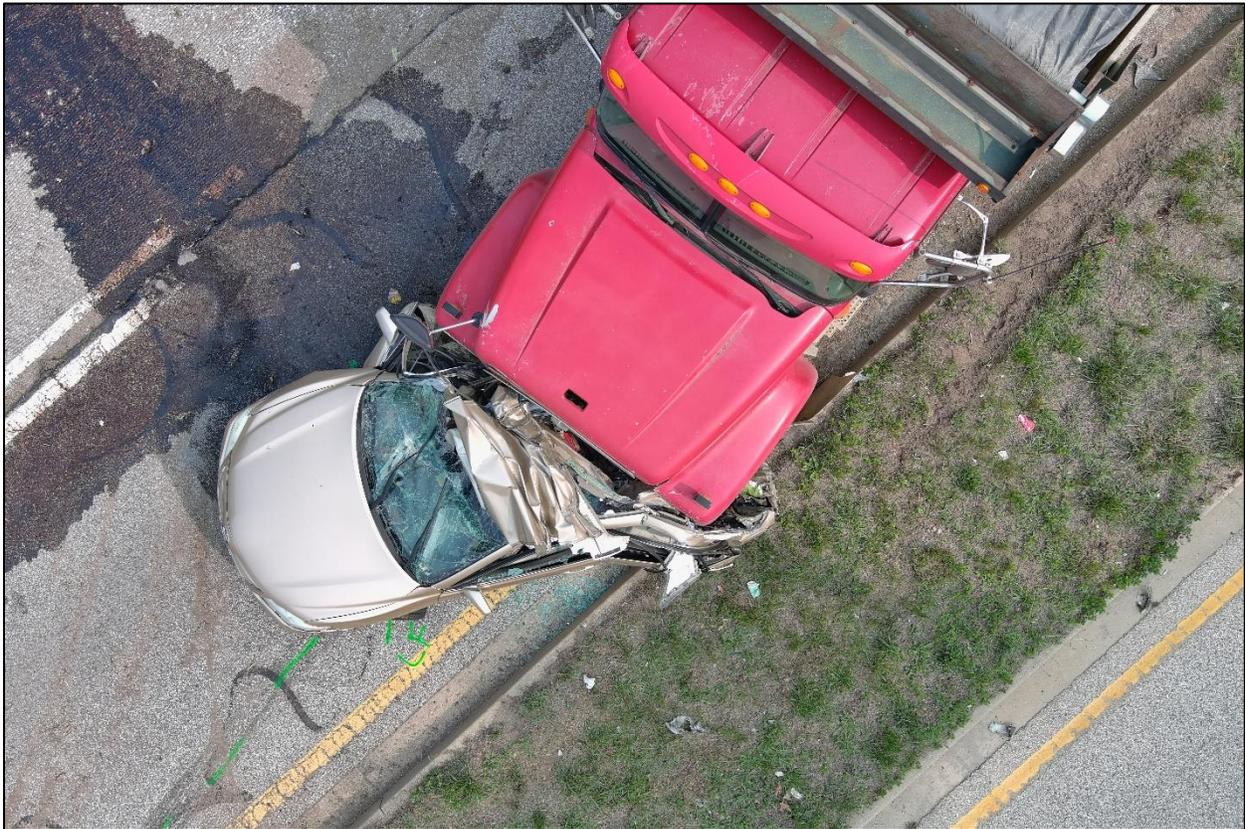


Image 9. MSP photograph showing the Camry after it struck the dump truck.

D. Collision Reconstruction

Sergeant Justin Zimmerman of MSP's statewide Crash Team responded to the scene to complete a collision reconstruction for the IID.

As part of the MSP collision reconstruction, Sergeant Zimmerman analyzed the Camry's event data recorder and received data for various vehicle systems for the five seconds prior to the collision. This data revealed that five seconds before the crash, the Camry was going 75.8 miles per hour, and its brake was on. Two seconds before, the Camry's brake was no longer engaged, and it was still traveling at 75.8 miles per hour. One second before the collision with the dump truck, the Camry was travelling 47.2 miles per hour, and at the time of the collision the car was

traveling 11.2 miles per hour.⁸ Investigators were unable to obtain GPS speed data from the dump truck.

Sergeant Zimmerman was able to determine that as the Camry was travelling south on Mattawoman Beantown Road, Mr. Mitchell failed to drive in a single lane and struck a curb and then overcorrected and entered a yaw and struck the median again, before travelling backwards into the front of the dump truck. Sergeant Zimmerman found that the collision was caused by Mr. Mitchell “who failed to stop for a uniformed officer in a marked police vehicle, failed to drive in a single lane, failed to control his speed to avoid a collision, and operated a vehicle while under the influence of cocaine.”

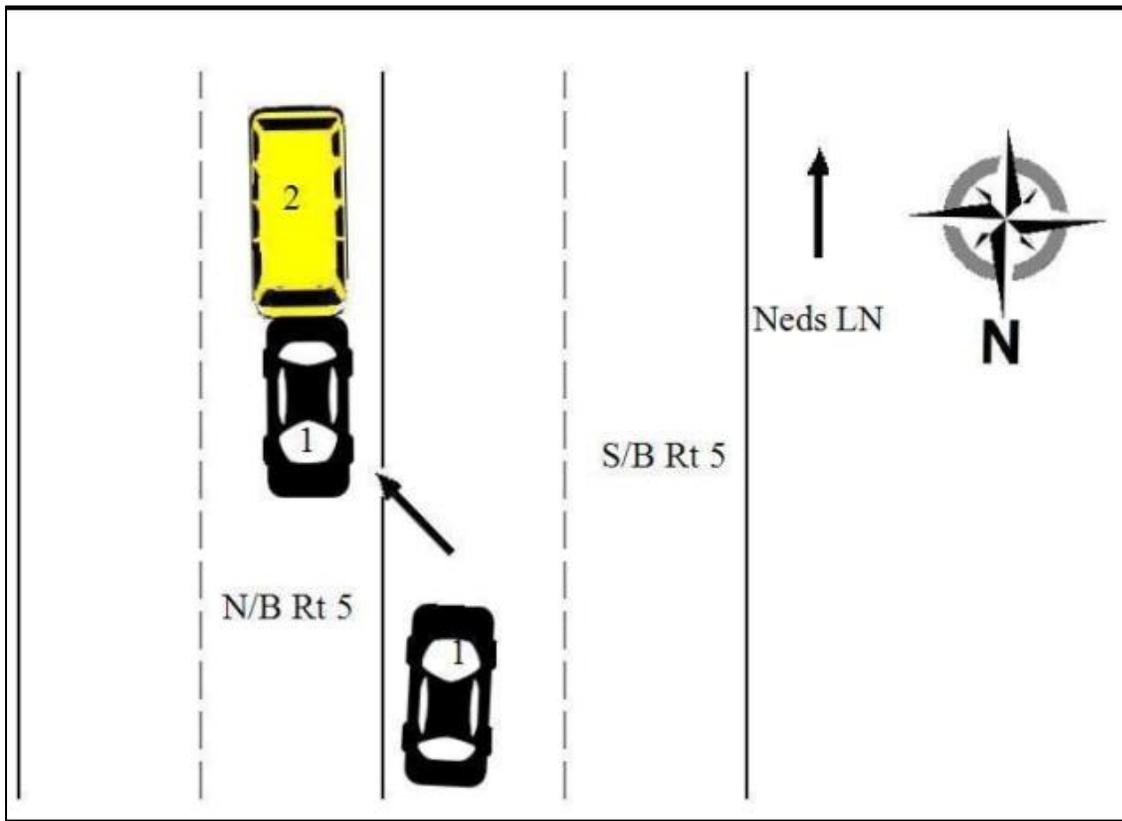


Image 10. Diagram of the collision scene from MSP's crash report.

E. Medical Examination

Mr. Mitchell's autopsy was performed by Assistant Medical Examiner Donna Vincenti, MD. Dr. Vincenti concluded Mr. Mitchell's cause of death was multiple injuries. These injuries were extensive and included abrasions, contusions, and lacerations of the head, neck, torso and extremities; brain hemorrhages and dislocation of a joint in the upper part of the neck; contusions and lacerations of the head and upper neck; fractures of numerous ribs and vertebrae; contusions

⁸ A further analysis of the Camry's computer data determined that these speeds were underreported for two reasons: 1) the vehicle was being pursued in excess of 100 miles per hour at the time it was registering 70 miles per hour, and 2) as the Camry was about to collide with the dump truck, it was travelling backwards as the wheels were still rotating forward.

and lacerations of the lungs, aorta, spleen, right adrenal gland, and bowel; pelvic fractures; and fractures of the right humerus, right radius and ulna, right tibia, and right fibula. Dr. Vincenti concluded Mr. Mitchell's manner of death was an accident.⁹

Postmortem toxicology testing was negative for alcohol but was positive for cocaine.

F. Civilian Witness Statements

The IID interviewed four civilians in relation to the carjacking and the pursuit. Where appropriate, details from those interviews have been incorporated above. The accounts given by the civilians are consistent with the other evidence obtained by the IID in this investigation.

1. [REDACTED]

As indicated earlier, [REDACTED] the owner of the Camry, was interviewed by an IID investigator on June 30. Much of her interview is provided in section (II) above. In addition to the above information, [REDACTED] said that she was driving a 2011 Toyota Camry that was "gold or tan," that she had owned for approximately 7 years. She said that she had clothing, food, two bibles, and documents in the car as well. [REDACTED] described the man who attacked her as a black man, approximately 5'7" or 5'8", strong, with short hair. She was not sure what he was wearing but had never seen him before. [REDACTED] was taken to the hospital with minor injuries and released.

2. [REDACTED]

[REDACTED] the dump truck driver who was involved in the crash with Mr. Mitchell, was interviewed by an MSP investigator on June 29. [REDACTED] also provided investigators with a written statement stating that he "was driving northbound just before Mattawoman Park and Ride." [REDACTED] was operating a dump truck, when he said that he observed a gold Camry being driven in the southbound lane, with officers "chasing" it. [REDACTED] told investigators that "the [Camry] jumped the median and hit me head on." [REDACTED] estimated that he was traveling at approximately 35 miles per hour, while the Camry was driving at "an excessive speed of approximately 100 miles per hour."

3. [REDACTED]

[REDACTED] was interviewed by an IID investigator on June 29. He told the IID that he was in his yard at "about 2 p.m." when he saw the Camry drive past his house and lose control. [REDACTED] was "200-300 feet" away from the road when he first saw the Camry. He said the Camry drove "so fast, you couldn't see [anybody] in there." [REDACTED] said "about four" sheriff's deputies were chasing the Camry about "1,000 feet" behind. The cars were

⁹ Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. The Maryland Office of the Chief Medical Examiner uses five categories of manner of death: natural, accident, suicide, homicide, and undetermined. "Accident" applies when an injury causes death and there is little or no evidence that the injury occurred with intent to harm or cause death. This term is not considered a legal determination; rather, it is largely used to assist with public health statistics. "A Guide for Manner of Death Classification," First Edition, National Association of Medical Examiners, February 2002.

travelling southbound, and the Camry lost control “200-some feet” from [REDACTED] driveway and it “went sideways” before [REDACTED] said that he lost sight of the car. [REDACTED] said that the Camry “jumped the median somehow.” The Camry came to rest when it hit the dump truck, although [REDACTED] did not see the crash and only heard it. The 3-4 pursuing deputies were “more than 100 feet away” at the time of impact and had their lights and sirens activated.

[REDACTED] said that he subsequently heard three loud noises after the crash that he initially believed was gunfire, but then saw that it was the deputies breaking out the glass to get to the driver of the Camry. [REDACTED] said that he did not see anyone get out of the Camry.

4. [REDACTED]

[REDACTED] was interviewed at the scene of the crash by an MSP investigator and provided investigators with a written statement; he was subsequently interviewed by IID investigators on July 10 and provided substantially the same information. [REDACTED] indicated that he was standing in his front yard on the phone when he observed that a “lighter color sedan” was speeding down the road “going at a very excessive speed,” with officers “a good distance away” or “roughly 100-150 yards.” [REDACTED] said that he saw the sedan “go out of control” and he lost sight of it in the tree line and then said that he heard a loud bang. Mr. Grayson said after that, he walked to the crash site and saw that the dump truck had “smashed the car” and that the sedan was in the opposite lane of travel. [REDACTED] told investigators that his assumption was “the car went out of control, hit the median, and then hit the dump truck,” although he was unable to see the actual crash. He said that he went towards the crash and saw that a police officer had smashed the window to check on the driver of the sedan, who was a man.

[REDACTED] estimated the speed of the sedan to be “70-75 [miles per hour].” He further estimated that the Camry was roughly 50 yards away when he first noticed it coming down the road. He also told investigators that he did not see any other cars on the road, besides the Camry and the officers.

G. Law Enforcement Officers’ Statements

1. Corporal Saunders and Officers Dunn and Toland

Corporal Saunders and Officers Dunn and Toland, like the subjects of any criminal investigation, have a right under the Fifth Amendment to refrain from making any statement. All three officers declined to be interviewed by investigators. This Fifth Amendment right also applies to written statements. None of the three subject officers submitted written pursuit reports for the incident.

2. Command Staff Review of Written Report

CCSO policy requires that a pursuit be documented by the sergeant responsible for Standards and Inspections. Once documented, that report, and the subject officers’ actions, are reviewed by supervisors within the CCSO for a determination as to whether the pursuit complied

with their policies. In this case, that report was completed by CCSO Sergeant George Higgs. After a review of the evidence in this case, Sergeant Higgs “did not observe any violations of Agency policy or training concerns” for any of the three subject officers. The CCSO Commander of the Office of Professional Responsibility and the Division Commander concurred with Sergeant Higgs’ report and approved his conclusions.

3. Officer Donald Butler

One additional CCSO officer, Donald Butler, was traveling behind the dump truck on Route 205 and arrived at the scene of the collision seconds after the Camry struck the dump truck. Officer Butler was interviewed by IID investigators on July 14 and said that on June 29 he was “responding to assist the officers with an assault call.” He was “a ways down” from the call but was listening to the radio as he was driving northbound on Mattawoman-Beantown Road near the Park and Ride. Officer Butler said that he saw the car they were looking for—the Camry— coming southbound, it “went sideways” and “lost control, jumped the median, and hit the dump truck.” Officer Butler estimated that he was the third car behind the dump truck. He said he first noticed the Camry when it went sideways.

Officer Butler got out of his cruiser and ran up to the Camry after it hit the dump truck, attempting to open the driver’s door. He said he could not open the door and the driver was stuck in the car. Officer Butler observed two officers attempting to check for a pulse after the crash.

III. Involved Parties’ Backgrounds

As part of its standard investigative practice, the IID obtained information regarding the involved parties’ criminal histories and departmental internal affairs and relevant training records. To the extent any criminal history exists, it is being provided to the Charles County State’s Attorney’s Office with this report.

A. Dejuan Mitchell:

Mr. Mitchell was a 34-year-old black man from Waldorf, Maryland.

B. CCSO Master Corporal William Saunders:

Corporal Saunders is a white man who was 40 years old at the time of this incident. He was hired by the Sheriff’s Office in February 2004. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] The IID reviewed all disciplinary records, and none were relevant to this investigation.

C. CCSO Officer Keegan Dunn:

Officer Dunn is a white man who was 37 years old at the time of this incident. He was hired by the Sheriff's Office in April 2022. Officer Dunn was previously employed by the Greenbelt Police Department for approximately three years. [REDACTED]

[REDACTED] The IID reviewed all disciplinary records, and none were relevant to this investigation. [REDACTED]

[REDACTED] has not been the subject of any prior Internal Affairs complaints or investigations relevant to the analysis of this incident. [REDACTED]

[REDACTED] A review of that incident led IID investigators to determine that it did not affect any analysis of this incident.

D. CCSO Police Officer First Class Dureyea Toland:

Officer Toland is a black man who was 36 years old at the time of this incident. He was hired by the Sheriff's Office in April 2019. [REDACTED]

[REDACTED] has not been the subject of any prior Internal Affairs complaints or investigations that would affect the analysis of this incident.

IV. Applicable Policies

CCSO has the following policies concerning vehicle pursuits and rendering medical aid. The complete policies are attached as Appendix B.

A. Administrative and Operations Manual, Section 4-302: Police Vehicle Pursuits

CCSO's Police Vehicle Pursuits Policy states that its purpose is "to provide officers and supervisors guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law." The policy allows "any officer may initiate the pursuit of a fleeing person whom the officer has authority to arrest." Officers must "make a quick assessment that the need to identify and apprehend the violator outweighs the risk created by the pursuit." The policy further provides that a supervisor shall take command of the pursuit and "make ongoing risk assessments," considering factors such as the underlying offense, roadway conditions, traffic conditions, and speed. The policy states: "After being provided the necessary information for the proper risk assessments, the supervisor shall determine if the pursuit should continue or be canceled."

B. Administrative and Operations Manual, Section 4-400: Vehicle Crashes

When officers respond to a crash scene, CCSO policy requires “that persons involved are checked for injuries, emergency aid is given for life-threatening injuries [,] and paramedics and ambulances are summoned.”

V. Applicable Law & Analysis

The IID analyzed Maryland statutes that could be relevant in a vehicle pursuit of this nature. This section presents the elements of each possible criminal charge and analyzes these elements in light of the factual findings discussed above.

There are two primary charges applicable to the circumstances of this case: manslaughter by vehicle, Crim. Law § 2-209, which is analyzed in subsection A, and criminally negligent manslaughter by vehicle, Crim. Law § 2-210, which is analyzed in subsection B, below.

A. Manslaughter by Vehicle¹⁰

Criminal Law § 2-209(b) states: “A person may not cause the death of another as a result of the person’s driving, operating, or controlling a vehicle or vessel in a grossly negligent manner.”

To prove manslaughter by vehicle, the State must establish: “(1) that the defendant drove a motor vehicle; (2) that the defendant drove in a grossly negligent manner, and (3) that this grossly negligent driving caused the death of [Mr. Mitchell].” MPJI-Cr 4:17.10 Homicide—Manslaughter by Motor Vehicle, MPJI-Cr 4:17.10 (2d ed. 2021). Grossly negligent conduct is that which “amount[s] to a wanton and reckless disregard for human life.” *Duren v. State*, 203 Md. 584, 588 (1954) (citing *State of Maryland v. Chapman, D.C.*, 101 F. Supp. 335, 341 (D. Md. 1951); *Hughes v. State*, 198 Md. 424, 432 (1951)).

A factfinder would need to determine whether their driving was grossly negligent. In Maryland, that determination rests in part on what a “reasonable officer” would do, which must also account for the fact that an officer is permitted to violate some traffic laws under certain circumstances. See *Boyer v. State*, 323 Md. 558, 589 (1991) (“the police officer’s conduct should be judged not by hindsight but should be viewed in light of how a *reasonably prudent police officer* would respond faced with the same difficult emergency situation” (emphasis added)). Here, Corporal Saunders activated his patrol car’s lights and sirens initially, and remained several car-lengths or more behind the Camry until he lost track of it at the traffic light at Route 301 and Acton Lane. All three subject officers were observed on video slowing down while navigating intersections, stop lights, and other vehicle traffic.

Moreover, speeding alone does not constitute reckless driving in Maryland, which weighs against a finding of gross negligence. See *e.g., Duren*, 203 Md. at 584 (holding grossly negligent driving to consist of “a lessening of the control of the vehicle to the point where such lack of effective control is likely at any moment to bring harm to another”); *Khawaja v. Mayor & City*

¹⁰ This report does not analyze the charge of common law involuntary manslaughter with respect to the pursuit itself because that charge is preempted by the manslaughter by vehicle statute. *State v. Gibson*, 254 Md. 399, 400-01 (1969).

Council, City of Rockville, 89 Md. App. 314, 326 (1991) (finding an officer was not grossly negligent when she struck another car while traveling 25 miles per hour over the speed limit and passing through a red light without her siren on). Thus, even though the subject officers drove above the speed limit, and Officer Dunn drove over 100 m.p.h. throughout the pursuit to keep pace with the Camry, a factfinder could find that they were driving reasonably under the circumstances. *Cf. Boyer*, 323 Md. at 580 (holding that allegations that a state trooper driving up to 100 m.p.h. on a congested highway in violation of policy did not constitute gross negligence). Additionally, although the Camry was not able to navigate Route 205 at that speed, Officer Dunn maintained control of his vehicle throughout the pursuit and adjusted his speed and path of travel to account for the Camry's movements and light traffic.

If a factfinder determined that none of the officers drove in a grossly negligent way, the State would need to show that the decision to engage in the pursuit was itself grossly negligent. One way to determine this is to examine whether the pursuit complied with CCSO's vehicle pursuit policy. The Supreme Court of Maryland has held that, "a violation of police guidelines may be the basis for a criminal prosecution." *State v. Pagotto*, 361 Md. 528, 557 (2000) (citing *State v. Albrecht*, 336 Md. 475, 502-03 (1994)) (emphasis in original). The Court clarified that, "while a violation of police guidelines is not negligence *per se*, it is a factor to be considered in determining the reasonableness of police conduct." *Id.* (citations omitted). Maryland courts have considered officers' policy violations as evidence of negligence, recklessness, unreasonableness, and corrupt intent. *See, e.g., Albrecht*, 336 Md. at 503; *Pagotto*, 361 Md. at 550-53; *Koushall v. State*, 249 Md. App. 717, 729-30 (2021), *aff'd*, No. 13, Sept. Term, 2021 (Md. Feb. 3, 2022); *Kern v. State*, No. 2443, Sept. Term 2013, 2016 WL 3670027, at *5 (Md. Ct. Spec. App. Jul. 11, 2016) (unreported); *Merkel v. State*, No. 690 Sept. Term 2018, 2019 WL 2060952, at *8 (Md. Ct. Spec. App. May 9, 2019) (unreported)¹¹; *Mayor and City Council of Baltimore v. Hart*, 395 Md. 394, 398 (2006) (civil litigation). However, a "hypertechnical" violation of policy, without more, is not sufficient to establish gross negligence. *State v. Pagotto*, 127 Md. App. 271, 304 (1999), *aff'd*, 361 Md. 528 (2000).

Here, the available evidence indicates that the officers' decisions to engage in the pursuit were compliant with CCSO's vehicle pursuit policy, which weighs against a finding of gross negligence. *Cf. id.* Specifically, the policy allows "any officer may initiate the pursuit of a fleeing person whom the officer has authority to arrest." There are several factors present that gave the officers the authority to arrest Mr. Mitchell. For example, the initial 911 call was for an assault in progress, upgraded to a possible carjacking, and ultimately confirmed as a carjacking. Upon Corporal Saunders' arrival at the Walmart parking lot, [REDACTED] was visibly injured, and Corporal Saunders was made aware that the man who assaulted her had stolen her car and just fled the parking lot. All CCSO officers had probable cause to stop the driver of the car for the carjacking, a felony. At 2:05:19, an officer confirmed that the incident was, in fact, a carjacking and broadcasted that information over the radio. In addition, all three officers—Saunders, Toland, and Dunn—were able to personally observe the Camry that matched the vehicle descriptions in the 911 call and radio dispatch. The officers observed the Camry driving at a high rate of speed moving back and forth between driving lanes. Further, before Officer Dunn had even engaged the Camry, it was driving erratically enough that it almost entered

¹¹ Pursuant to General Provisions § 1-104, unreported opinions shall not be used as either precedential or persuasive authority in any Maryland court. They are included here solely for illustrative purposes.

Officer Dunn's driving lane when it turned on to Route 205. Additionally, the pursuit was reviewed by CCSO command staff who found that the pursuit met the criteria for their vehicle pursuit policy. Thus, the available evidence indicates that the officers' decision to engage in the pursuit was not a violation of CCSO policy.

Additionally, a factfinder would need to use the available evidence to determine whether the officers caused Mr. Mitchell's death, as required to satisfy the third element of a manslaughter by vehicle charge. In order to satisfy this element, the state must prove that any CCSO caused Mr. Mitchell's death. "A causal connection between ... gross negligence and death must exist to support a conviction" *Albrecht*, 336 Md. at 499, 649 A.2d 336 (citation omitted). See also *Craig v. State*, 220 Md. 590, 597, (1959) (negligence "must be the proximate cause of death"); *Duren*, 203 Md. at 593, ("Necessarily, the criminal negligence must have produced the death if the accused is to be guilty of manslaughter."); *Blackwell v. State*, 34 Md. App. 547, 557, (1977) (there must "be some reasonable connection between the act or omission and the death that ensued") (citation omitted); *Mills*, 13 Md. App. at 200. "It is required, for criminal liability, that the conduct of the defendant be both (1) the actual cause, and (2) the 'legal' cause (often called 'proximate' cause) of the result." LaFave, Criminal Law § 6.4(a), at 437. For conduct to be the actual cause of some result, "it is almost always sufficient that the result would not have happened in the absence of the conduct"—or "but for" the officers' conduct. LaFave, Criminal Law § 6.4(b), at 439. However, the causal link between an accused person's actions and another person's death—the chain of causation—may be broken by an "unforeseen and intervening event" that more immediately causes the death. *Pagotto*, 127 Md. App. at 364. For an intervening act to be sufficient to break the chain of causation, it must outweigh the effect of an accused person's negligent act and produce an outcome that was not a foreseeable consequence of the negligent act. *Id.* at 356-61. Here, the evidence shows that Mr. Mitchell was driving in a reckless manner prior to the initiation of the pursuit. Corporal Saunders' video shows that Mr. Mitchell made a reckless right turn from the center lane at the busy intersection of Acton Lane and Route 301, prior to the initiation of any police pursuit. Mr. Mitchell continued driving in this manner throughout the pursuit, and officers were several hundred feet behind him when he lost control of the Camry, struck the center median, jumped the median, and ultimately struck the dump truck.

B. Criminally Negligent Manslaughter by Vehicle

Criminal Law § 2-210 states:

(b) A person may not cause the death of another as the result of the person's driving, operating, or controlling a vehicle or vessel in a criminally negligent manner. (c) For purposes of this section, a person acts in a criminally negligent manner with respect to a result or a circumstance when: (1) the person should be aware, but fails to perceive, that the person's conduct creates a substantial and unjustifiable risk that such a result will occur; and (2) the failure to perceive constitutes a gross deviation from the standard of care that would be exercised by a reasonable person. (d) It is not a violation of this section for a person to

cause the death of another as the result of the person's driving, operating, or controlling a vehicle or vessel in a negligent manner.

Criminally negligent manslaughter by vehicle differs from manslaughter by vehicle only in that it requires proof of criminal negligence rather than gross negligence. MPJI-Cr 4:17.10 Homicide—Manslaughter by Motor Vehicle, MPJI-Cr 4:17.10 (2d ed. 2021). Gross negligence requires proof that “the defendant *was conscious of the risk* to human life posed by his or her conduct.” 96 Md. Op. Atty. Gen. 128, 138, Dec. 21, 2011 (*available at* <https://www.marylandattorneygeneral.gov/Opinions%20Documents/2011/96oag128.pdf>) (emphasis in original). Criminal negligence requires proof that “the defendant *should have been aware, but failed to perceive* that his or her conduct created a ‘substantial and unjustifiable risk’ to human life and that the failure to perceive that risk was a ‘gross deviation’ from the standard of care that a reasonable person would exercise.” *Id.* (emphasis in original; quoting Crim. Law § 2-210). In *Beattie v. State*, the Appellate Court explained Maryland’s “gross deviation” standard by comparing it with a similar Kansas statute that used the “material deviation” standard, stating: “a ‘material deviation’ from the standard of care require[s] ‘something more than ordinary or simple negligence yet something less than gross and wanton negligence.’” 216 Md. App. 667, 683 (2014). The court’s analysis presents negligence as a spectrum—with simple negligence on one end, followed by criminal negligence (“a gross deviation from the standard of care”), and ending with gross negligence.

As with the manslaughter by vehicle charge discussed above in Section V(A), of the State would need to prove that the subject officers—Dunn, Toland, or Corporal Saunders—created an unjustifiable risk that was a gross deviation from a reasonable standard of care. While there is little case law interpreting the criminally negligent manslaughter statute, which was enacted in 2011, those few cases have examined issues related to speed, visibility, driver aggressiveness, and driver impairment. *See, e.g., id.* at 684 (upholding a conviction where defendant “drove his 70-foot tractor trailer, in the dark, across three lanes of traffic on a highway where the speed limit was 65 miles per hour” and “[d]ue to his location near the curve of the road, he could see only a distance of a quarter mile.”); *Billups v. State*, 2019 WL 4724633, at *3 (Md. Ct. Spec. App. Sept. 26, 2019) (upholding a conviction where defendant, while high on PCP, drove on a highway on-ramp while swerving and going 16 miles per hour over the speed limit); and *Dobrzynski v. State*, 223 Md. App. 771 (2015) (upholding a conviction where defendant drove while on medication and severely over-tired and drove above the speed limit knowing that her child was unbuckled in the back seat).

In the instant case, all officers involved in the pursuit undoubtedly drove at speeds well above the posted speed limit 45 miles per hour, and the pursuit occurred during a period of hazy, smoky weather that caused lower visibility than would otherwise be present at that time of day. With regard to this visibility, however, the pursuit was during daylight hours, and the dashboard camera footage and radio transmissions largely indicate that Officer Dunn did not lose actual sight of the Camry once he encountered it on Mattawoman-Beantown Road. The Camry remained at least several car lengths in front of him throughout the pursuit. Additionally, based on a review of their dashboard camera footage and radio transmissions, neither Corporal Saunders nor Officer Toland struggled to control their driving. At the time the Camry crashed, neither were in view of the car and both officers took several seconds to arrive at the crash scene.

Further, this stretch of roadway is level with no apparent change in elevation. Finally, there is certainly no evidence that any officer was in any way impaired during the pursuit, unlike some of the defendants referenced in the criminally negligent manslaughter by vehicle cases cited above.

C. Duty of Driver to Render Reasonable Assistance to Persons Injured in an Accident

Transportation Article § 20-104(a) states: “The driver of each vehicle involved in an accident that results in bodily injury to or death of any person or in damage to an attended vehicle or other attended property shall render reasonable assistance to any person injured in the accident and, if the person requests medical treatment or it is apparent that medical treatment is necessary, arrange for the transportation of the person to a physician, surgeon, or hospital for medical treatment.”

This offense requires proof that: (1) the defendant drove a motor vehicle; (2) the motor vehicle was involved in an accident; (3) the accident resulted in bodily injury to or death of a person or in damage to an attended vehicle or other attended property; and (4) the defendant did not render reasonable assistance to a person injured in the accident.

Because no CCSO officer was involved in the accident, there is no available evidence to show that the second element above is met. Additionally, Officer Dunn reported the collision at the exact moment it happened. He immediately stepped out of his patrol car and ran up to the Camry, as did Officer Toland and Corporal Saunders. Based on a review of the crash scene and the statement by Officer Butler, no officer could have physically gotten to Mr. Mitchell until the Camry was moved away from the dump truck and Fire Rescue personnel extracted him. Indeed, Officer Saunders pronounced Mr. Mitchell dead on scene, and Fire Rescue personnel was needed to extract his body from the vehicle.

D. Reckless Driving and Negligent Driving

Transportation Article § 21-901.1(a) states: “A person is guilty of reckless driving if he drives a motor vehicle: (1) In wanton or willful disregard for the safety of persons or property; or (2) In a manner that indicates a wanton or willful disregard for the safety of persons or property.”

Transportation Article § 21-901(b) states: “A person is guilty of negligent driving if he drives a motor vehicle in a careless or imprudent manner that endangers any property or the life or person of any individual.”

Factors such as “[s]peed, erratic driving, disregard of the red light, [and] force of impact ... can be taken as evidence of wanton or reckless disregard of human life.” *Taylor v. State*, 83 Md. App. 399, 404 (1990) (citing *Boyd v. State*, 22 Md. App. 539 (1974); *State v. Kramer*, 318 Md. 576, 590 (1990)).

For the reasons outlined in Sections V(A) and V(B) above, the available evidence would make it difficult to prove that any CCSO officer drove recklessly or negligently.

E. Other Charges Considered¹²

There are several other charges for which full analysis was not warranted given the facts of this incident. Those charges are addressed briefly here.

The crimes of first-degree murder, intentional second-degree murder, and voluntary manslaughter each requires the State to prove the defendant had “either the intent to kill or the intent to inflict such serious bodily harm that death would be the likely result.” MPJI-Cr 4:17 Homicide—First Degree Premeditated Murder and Second Degree Specific Intent Murder, MPJI-Cr 4:17 (2d ed. 2021); *Cox v. State*, 311 Md. 326, 331 (1988) (voluntary manslaughter is “an intentional homicide”). In this case, there are no facts suggesting that any CCSO officer intended to kill or cause serious bodily harm to Mr. Mitchell.

The crime of second-degree depraved heart murder requires the State to prove the defendant “created a very high degree of risk to the life of [Mr. Mitchell]” and “acted with extreme disregard of the life endangering consequences” of such risk. MPJI-Cr 4:17.8 Homicide—Second Degree Depraved Heart Murder and Involuntary Manslaughter (Grossly Negligent Act and Unlawful Act), MPJI-Cr 4:17.8 (2d ed. 2021). With respect to the pursuit, this charge is preempted by the manslaughter by vehicle statute. *Blackwell v. State*, 34 Md. App. 547, 555-56 (1977).

The crime of misconduct in office requires the State prove: (1) that the defendant was a public officer; (2) that the defendant acted in their official capacity or took advantage of their public office; and (3) that the defendant corruptly did an unlawful act (malfeasance), corruptly failed to do an act required by the duties of their office (nonfeasance), or corruptly did a lawful act (misfeasance). MPJI-Cr 4:23 Misconduct in Office (Malfeasance, Misfeasance, and Nonfeasance), MPJI-Cr 4:23 (2d ed. 2021). “[T]he conduct must be a willful abuse of authority and not merely an error in judgment.” Comment to *id.* (citing Hyman Ginsberg and Isidore Ginsberg, *Criminal Law & Procedure in Maryland* 152 (1940)). While the State need not show direct evidence of intent when alleging malfeasance, the available evidence here does not indicate that any CCSO officer engaged in any unlawful act. *See Pinheiro v. State*, 244 Md. App. 703, 722 n. 8 (2020). Regarding misfeasance and nonfeasance, there is no evidence that any CCSO officer acted with a corrupt intent, defined as “depravity, perversion, or taint.” *Id.*

VI. Conclusion

This report has presented factual findings and legal analysis relevant to the fatal officer-involved vehicle pursuit that occurred on June 29, 2023, in Charles County, Maryland. Please contact the IID if further investigation or analysis is required.

¹² This report does not analyze the potential charge of reckless endangerment because the relevant subsection of that statute “does not apply to conduct involving ... the use of a motor vehicle.” Criminal Law § 3-204(c)(1)(i).

Appendices

Appendix A – Materials Reviewed

911 Calls (1 recording)
CAD Reports (3 items)
Civilian Witness Documents (1 item)
Civilian Witness Statements (3 recordings)
Communications Audio (1 recording)
Dash Cam Video (19 recordings)
Departmental Policies (2 items)
IA History and Training Records (110 items)
MSP Reports (10 items)
OAG Reports (12 reports)
OCME (1 autopsy report with cover letter, 13 photographs, 1 request)
Officer Witness Statements (1 recording)
Photographs (75 photos)
Police Reports (2 items)

All materials listed above have been shared with the Charles County State's Attorney's Office via a secure filesharing service.

Appendix B – Relevant CCSO Policy

See attached.

Appendix B

Relevant CCSO Policy